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7  
8 **BEFORE THE**  
**STATE BOARD OF OPTOMETRY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. CC 2012-195

11 **SHARON R. FREEMAN**  
12 **312 Town Center**  
13 **Corte Madera, CA 94925**

**A C C U S A T I O N**

14 **Certificate of Registration to Practice**  
**Optometry No. 9837**

15 Respondent.

16  
17 Complainant alleges:

18 **PARTIES**

19 1. Mona Maggio (Complainant) brings this Accusation solely in her official capacity as  
20 the Executive Officer of the State Board of Optometry, Department of Consumer Affairs.

21 2. On or about October 16, 1991, the State Board of Optometry issued Certificate of  
22 Registration to Practice Optometry Number 9837 to Sharon R. Freeman (Respondent). The  
23 Certificate of Registration to Practice Optometry was in full force and effect at all times relevant  
24 to the charges brought herein and will expire on December 31, 2015, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the State Board of Optometry (Board), Department  
27 of Consumer Affairs, under the authority of the following laws. All section references are to the  
28 Business and Professions Code unless otherwise indicated.

4. Section **118(b)** of the Code provides, in pertinent part, that the expiration of a license shall not deprive a board of jurisdiction to proceed with a disciplinary action during the period

within which the license may be renewed, restored, reissued or reinstated.

5. Section 3090 of the Code states:

Except as otherwise provided by law, the board may take action against all persons guilty of

violating this chapter or any of the regulations adopted by the board. The board shall enforce and administer this article as to licenseholders, and the board shall have all the powers granted in this chapter for these purposes, including, but not limited to, investigating complaints from the public, other licensees, health care facilities, other licensing agencies, or any other source suggesting that an optometrist may be guilty of violating this chapter or any of the regulations adopted by the board.

## STATUTES AND REGULATIONS

6. Section 3110 of the Code states:

The board may take action against any licensee who is charged with unprofessional conduct, and may deny an application for a license if the applicant has committed unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly assisting in or abetting the violation of, or conspiring to violate any provision of this chapter or any of the rules and regulations adopted by the board pursuant to this chapter.

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions.

(d) Incompetence.

• • •

(y) Failure to refer a patient to an appropriate physician in either of the following circumstances:

(1) Where an examination of the eyes indicates a substantial likelihood of any pathology

1 that requires the attention of that physician.

2 (2) As required by subdivision (c) of Section 3041.

3 **COSTS**

4 7. Code section 125.3 provides, in pertinent part, that the Board may request the  
5 administrative law judge to direct a licentiate found to have committed a violation or violations of  
6 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
7 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
8 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
9 included in a stipulated settlement.

10 **FACTUAL SUMMARY**

11 8. Beginning in 2003, Respondent provided optometric care to patient L.B.<sup>1</sup> Patient  
12 L.B. had a family history of glaucoma.

13 9. On or about November 6, 2004, during patient L.B.'s annual eye examination, the  
14 cup-to-disk ratio in her left eye had changed, to 0.3/0.3 in one eye and 0.4/0.4 in the other.

15 10. On or about September 30, 2006, at her next eye examination, patient L.B.'s cup-to-  
16 disk ratio was 0.2/0.2 in one eye and 0.5/0.5 in the other.

17 11. On or about March 3, 2008, at her next eye examination, patient L.B.'s cup-to-disk  
18 ratio remained unchanged according to Respondent's measurements.

19 12. On or about October 10, 2009, at patient L.B.'s next eye examination, Respondent  
20 found patient L.B.'s cup-to-disk ratio to be unchanged, and found that patient L.B.'s intraocular  
21 pressure was 21 and 22 mmHg.

22 13. On or about May 26, 2011, at patient L.B.'s next eye examination, Respondent found  
23 that patient L.B.'s intraocular pressure was 17 and 16 mmHg, and found that patient L.B.'s cup-  
24 to-disk ratio had not changed.<sup>2</sup>

25  
26 <sup>1</sup> The identity of patient L.B. is withheld to protect patient privacy.

27 <sup>2</sup> Based on later evaluation by David Heiden, M.D., as further described in paragraph 15, it is likely  
28 that Respondent's assessment of the cup-to-disk ratio on this date was incorrect.

1 14. Despite the documented fluctuations in patient L.B.'s intraocular pressures, and  
2 patient L.B.'s asymmetric cup-to-disk ratios, and patient L.B.'s family history of glaucoma,  
3 Respondent failed on the above-described dates to recognize that there was a substantial  
4 likelihood that patient L.B. suffered from glaucoma. Respondent failed to refer patient L.B. to a  
5 physician for follow-up regarding this likely pathology. Respondent also failed to utilize a full  
6 threshold peripheral vision test to determine whether patient L.B.'s vision was impaired in a  
7 manner consistent with glaucoma.

8 15. On or about March 21, 2012, patient L.B. sought treatment from David Heiden, M.D.  
9 Dr. Heiden found that patient L.B.'s intraocular pressures were 16,15 in the right eye and 10,11  
10 in the left eye. Dr. Heiden observed a cup-to-disk ratio of 0.4 in one eye and 0.8 in the other.  
11 After additional evaluation during follow-up appointments, Dr. Heiden diagnosed patient L.B.  
12 with glaucoma.

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15 **FIRST CAUSE FOR DISCIPLINE**

16 (Gross Negligence)

17 16. Respondent is subject to disciplinary action under Code section 3110(b), in that she  
18 acted with gross negligence, as set forth above in paragraphs 8-15.

19 **SECOND CAUSE FOR DISCIPLINE**

20 (Repeated Negligent Acts)

21 17. Respondent is subject to disciplinary action under Code section 3110(c), in that she  
22 committed repeated negligent acts, as set forth above in paragraphs 8-15.

23 **THIRD CAUSE FOR DISCIPLINE**

24 (Incompetence)

25 18. Respondent is subject to disciplinary action under Code section 3110(d), in that she  
26 acted incompetently, as set forth above in paragraphs 8-15.

27 **FOURTH CAUSE FOR DISCIPLINE**

28 (Failure to Refer Patient to Physician)

1 19. Respondent is subject to disciplinary action under Code section 3110(y), in that she  
2 failed to refer her patient to a physician when eye examinations indicated a substantial likelihood  
3 of a pathology requiring the attention of a physician, as set forth above in paragraphs 8-15.

4 **FIFTH CAUSE FOR DISCIPLINE**

5 (Violation of Chapter)


6 20. Respondent is subject to disciplinary action under Code section 3110 (a) in that she  
7 violated provisions of this chapter, as set forth above in paragraphs 8-15 and in the above Causes  
8 for Discipline.

9 **PRAYER**

10 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
11 and that following the hearing, the State Board of Optometry issue a decision:

- 12 1. Revoking or suspending Certificate of Registration to Practice Optometry Number  
13 9837, issued to Sharon R. Freeman;
- 14 2. Ordering Sharon R. Freeman to pay the State Board of Optometry the reasonable  
15 costs of the investigation and enforcement of this case, pursuant to Business and Professions Code  
16 section 125.3;
- 17 3. Taking such other and further action as deemed necessary and proper.

18 DATED: October 22, 2014

19   
20 MONA MAGGIO  
21 Executive Officer  
22 State Board of Optometry  
23 Department of Consumer Affairs  
24 State of California  
25 Complainant  
26  
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